

## AMERICAN ANTISALOON LEAGUE.

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Mr. GALLINGER submitted the following

**REPORT OF THE LEGISLATIVE DEPARTMENT OF THE AMERICAN  
ANTISALOON LEAGUE AT THE EIGHTH NATIONAL CONVEN-  
TION, WASHINGTON, D. C., DECEMBER 11, 1903.**

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In my third annual report last December I gave the results of the preceding year's temperance conflict at the national capital.

The victories for that period were specially the retention of the anticanteen law, which had been won by our federated forces early the year before, and the direct appropriation by Congress of a first half million dollars for saloon substitutes—for buildings at the various army posts for recreation purposes for the men. The annual departmental and secular newspaper onslaught on the anticanteen law was in full progress when our seventh annual convention met in this city.

It has been our policy—and in this we have had the full sympathy and practical help of the efficient superintendent of legislation of the W. C. T. U., Mrs. M. D. Ellis—to concentrate on a given fight and win that and avoid a scattering of ammunition and forces over several fields, and the results of recent years have proved its wisdom. We determined that, if necessary, we would hold the effective army saloon prohibitory law we had gotten and secure additional appropriations for post-exchange buildings, as neither were in a sense new legislation, and then concentrate our energies upon what was known as the Hepburn bill. This was designed to protect State and local legislation against interstate-commerce shipments of liquor, by giving State law jurisdiction over liquors shipped into the State both before and after delivery.

The large circulation of the address of our last national convention on the subject of the canteen, the product of one of our executive committee, the Rev. Dr. I. K. Funk, of New York, with the help of Superintendent Anderson, of Illinois, and our legislative department, and which was probably one of the most valuable contributions to anticanteen literature, together with other forceful related matter, in addition to the personal and letter appeals to Congress to preserve the law and continue the erection of recreation buildings throughout the Army, as well as the most careful inside work upon the ground here, soon settled the question of the canteen in the last Congress.

Gen. Charles Dick, coming from one of the best districts in Ohio, major-general of the Ohio militia and a member of the House Military Committee, who has stood solidly for the abolishment of the official saloon in the Army, moved, on January 9, in the committee, that it be definitely settled that no action be taken during the Congress looking to the restoration of the canteen.

Subsequently Senator Hansbrough introduced an amendment calling for additional appropriations for exchange buildings, and both Senate and House agreed to a second half million, so that the Fifty-seventh Congress initiated a practical scheme of saloon substitution in our military establishment and set aside a full million in aid of it. Next to the passage of the anticanteen law, affecting practically the whole Army and withdrawing the Government's sanction to liquor selling in connection with it, the constructive work just referred to constitutes, in my judgment and in that of the public, the most valuable national temperance work of a decade past.

We expect to secure and are practically assured another \$500,000 for continuing this praiseworthy work in our Army during the present session of Congress.

The original Hepburn bill was introduced less than a week before the adjournment of Congress in July, 1902. When it came officially before your legislative superintendent and committee, and while much correspondence was being had about it with our Iowa league officers, it was believed that it would meet with the same construction by the Supreme Court as the Wilson law, whose defect in verbiage, as construed by the court, it was designed to correct.

We believed then, as we firmly believe now, that the bill was of too great importance to all the States to take any unnecessary risk as to faulty language, and we had far better take time to make it absolutely safe so far as that were possible and then take time to pass it, rather than induce the passage of a bill which would be ineffective when passed and would chiefly serve to discredit our leadership as a league in temperance affairs.

In my last report, December 10, 1902, almost at the opening of Congress, I stated that as soon as the convention was over I would immediately take up the Hepburn bill, get it into shape, and undertake to crowd it through. The bill was sleeping in the Judiciary Committee when, at our request, Mr. Littlefield, of Maine, who had so successfully led our forces in the House in the anticanteen struggle in 1900, had it referred to the subcommittee of which he was chairman, and secured its unanimous recommendation to the full committee, by whom it was promptly favorably considered, and in a few days, the first day the Judiciary Committee had for the presentation of bills, it was reported to the House, and the inside work having been carefully looked after, and the temper of the body become known, the measure passed on the 27th of January last without division.

The report of the House committee is so clear and terse a statement of the necessity for and the scope of the bill that I incorporate it in this report for the benefit of our friends who may not have seen it heretofore:

Mr. Clayton, from the Committee on the Judiciary, submitted the following report (No. 3377) to accompany H. R. 15331.

The Committee on the Judiciary, to whom was referred the bill (H. R. 15331) to amend an act to limit the effect of the regulations of commerce between the several

States and with foreign countries in certain cases, approved August 8, 1890, having considered said bill, submit the following report:

Nearly all the States have passed laws, as police regulations, differing to some extent in their provisions, for the prohibition, regulation, or control of intoxicating liquors within their respective boundaries.

In the case of *Leisy v. Hardin* (135 U. S., 100) the Supreme Court held that any citizen of a State had the right under the Constitution of the United States to import any intoxicating liquors into another State, and that in the absence of Congressional permission the State into which such liquors were imported had no power, in the exercise of its authority of police regulation, to enact laws to prohibit or regulate the sale of such liquors while they remained in the original packages.

The effect of this decision of the Supreme Court was to deny to the States all power to control or prohibit the sale of intoxicating liquors transported from one State into another while they remained in the original packages.

To remove the effect of this decision, and to authorize the several States, in the exercise of their police powers, to prohibit or control the sale of intoxicating liquors, the act of August 8, 1890, was passed. That act provided "that all fermented, distilled, or other intoxicating liquors or liquids transported into any State or Territory, or remaining therein for use, consumption, sale, or storage therein, shall, upon arrival in such State or Territory, be subject to the operation and effect of the laws of such State or Territory enacted in the exercise of its police powers, to the same extent, and in the same manner, as though such liquids or liquors had been produced in such State or Territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise."

In the case in *re Rahrer* (140 U. S., 545) the Supreme Court of the United States held that this act was constitutional and valid, and conferred upon the States the powers enumerated therein. But in the case of *Rhodes v. Iowa* (170 U. S., 415) a question arising under this act again came before the Supreme Court, and, in defining the scope and meaning of the act, the court held that under its provisions liquors transported from one State into another remained under the protection of the interstate-commerce laws until they were delivered to the consignee, and that the State law was inoperative to reach them until they were delivered by the common carrier to the person to whom they were consigned.

The effect of this decision was practically to nullify the act of 1890 so far as the transportation and delivery of intoxicating liquors within the State were concerned. Under the law, as thus construed, dealers in intoxicating liquors located in some of the States sent out their soliciting agents and established agencies in other States, who traveled over and canvassed the country and solicited sales and took orders for intoxicating liquors to be shipped in by the principal, consigned to the subscribers—sometimes to be sent to them direct, and in other cases to be sent to them in care of the soliciting agent.

By this method a regular business of dealing in intoxicating liquors by the foreign dealer has been kept up in many of the States with impunity. Under this system the States are entirely powerless either to prohibit such sales or to exercise any control or regulation over them. They can not even impose a license or any restrictions whatever on the business carried on in this manner.

It is the purpose of this bill to correct this evil and to subject intoxicating liquors imported from one State into another to the jurisdiction of the laws of the State into which they are imported on the arrival of such liquors within the boundaries of such State.

Your committee therefore reports the bill back to the House with the following substitute amendment, and recommends that the bill as amended do pass:

"That all fermented, distilled, or other intoxicating liquors, or liquids transported into any State or Territory, or remaining therein for use, consumption, sale, or storage therein, shall, upon arrival within the boundary of such State or Territory, before and after delivery, be subject to the operation and effect of the laws of such State or Territory, enacted in the exercise of its police powers to the same extent and in the same manner as though such liquids or liquors had been produced in such State or Territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise."

"SEC. 2. That all corporations and persons engaged in interstate commerce shall, as to any shipment or transportation of fermented, distilled, or other intoxicating liquors or liquids, be subject to all laws and police regulations with reference to such liquors or liquids, or the shipment or the transportation thereof, of the State in which the place of destination is situated, and shall not be exempt therefrom by reason of such liquors or liquids being introduced therein in original packages or otherwise."

Amend the title so as to read: "A bill to limit the effect of the regulations of commerce between the several States and with foreign countries in certain cases."

The bill as thus passed was sent over to the Senate and, by an oversight, was referred to the Committee on Interstate Commerce. The Wilson bill, whose verbiage this bill was designed to correct, was referred to the Judiciary Committee in both branches of the Fifty-first Congress, and the Hepburn bill was sent to the House Committee on the Judiciary, although Colonel Hepburn himself is chairman of the Committee on Interstate and Foreign Commerce.

After successive attempts to secure the presence of a quorum for the consideration of the bill, the agreement was finally reached that on the 13th of February a hearing should be given, that the time for and against the bill should be divided equally and controlled respectively by your legislative superintendent and Mr. N. W. Kendall, president of the United States Brewers' Association, and that at the conclusion of the hearing the committee would go into executive session and determine its action upon the bill.

The committee met long after the appointed hour, and thus the same influences in the committee that had prevented a quorum were able to postpone definite action on the measure. In the conduct of the hearing we carried out the suggestion of our best friends on the committee and outside, and we believe the objections to the bill, chiefly along constitutional lines, were answered conclusively. The failure of the committee to act that day was not our fault, nor could it have been avoided. Those who knew the facts were aware that had we not occupied the time allotted to our side a representative of an important branch of the liquor trade, who was present and clamoring for further time, would have had recognition, and we would simply have lost our time and opportunity with the committee without hastening its action.

In this connection I want to commend the very able argument of Andrew Wilson, esq., who presented our case to the committee from the legal standpoint and made a most forceful statement, well supported by legal citations strengthening our claims.

At the same time I can not refrain from acknowledging the sympathy and help which came from our league officers and committee and from Mrs. Ellis during this period. The day before the hearing—but when official duties at Washington in connection with it seemed for a week previous to forbid my absence—a baby girl was born into my family at my Ohio home, and the following week my father died suddenly in this city. On the 21st of February I was compelled to return to Ohio with his remains. During this time, and all through the winter, Hon. S. E. Nicholson, our national secretary and a member of the legislative committee, rendered valuable assistance with counsel and personal help out of his practical experience as a legislator, which I fully appreciated and considered invaluable.

Just as I was returning from my sad mission to Ohio the Supreme Court, speaking by Mr. Justice Harlan, decided the so-called "Champion lottery case," in which the constitutionality of our bill was practically affirmed. The principal objection raised to the bill had been that while the third paragraph of section 8, of Article I, delegated the power to Congress "to regulate commerce among the several States," that power did not include the power to prohibit. That portion of the decision rendered for the court by Justice Harlan relating to our question is given herewith:

That regulation may sometimes take the form or have the effect of prohibition is also illustrated in the case of *in re Rahrer* (140 U. S., 545). In *Mugler v. Kansas*

(123 U. S., 623) it was adjudged that State legislation prohibiting the manufacture of spirituous, malt, vinous, fermented, or other intoxicating liquors within the limits of the State, to be there sold or bartered for general use as a beverage, does not necessarily infringe any right, privilege, or immunity secured by the Constitution of the United States or by the amendments thereto. Subsequently, in *Bowman v. Chicago, etc., Railway Company* (125 U. S., 465), this court held that ardent spirits, distilled liquors, ale, and beer were subjects of exchange, barter, and traffic, and were so recognized by the usages of the commercial world, as well as by the laws of Congress and the decisions of the courts.

In *Leisy v. Hardin* (135 U. S., 100) the court again held that spirituous liquors were recognized articles of commerce, and declared a statute of Iowa prohibiting the sale within its limits of any intoxicating liquors, except for pharmaceutical, medicinal, chemical, or sacramental purposes, under a State license, to be repugnant to the commerce clause of the Constitution, if applied to the sale, within the State, by the importer, in the original, unbroken packages of such liquors manufactured in and brought from another State. And in determining that case the court said that "whether a State could prohibit the sale within its limits, in original, unbroken packages, of ardent spirits, distilled liquors, ale, and beer, imported from another State, this court said that they were recognized by the laws of Congress, as well as by the commercial world, 'as subjects of exchange, barter, and traffic,' and that whatever our individual views may be as to the deleterious or dangerous qualities of particular articles we can not hold that any articles which Congress recognized as subjects of commerce are not such." (*Leisy v. Hardin*, 135 U. S., 100, 110, 125.)

Then followed the passage by Congress of the act of August 8, 1890 (26 Stat., 313, ch. 728), providing—

that all fermented, distilled, or other intoxicating liquors or liquids transported into any State or Territory, or remaining therein for use, consumption, sale, or storage therein, shall, upon arrival in such State or Territory, be subject to the operation and effect of the laws of such State or Territory enacted in the exercise of its police powers, to the same extent and in the same manner as though such liquids or liquors had been produced in such State or Territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.

That act was sustained in the *Rahrer* case as a valid exercise of the power of Congress to regulate commerce among the States.

In *Rhodes v. Iowa* (170 U. S., 412, 426) that statute—all of its provisions being regarded—was held as not causing the power of the State to attach to an interstate commerce shipment of intoxicating liquors—while the merchandise was in transit under such shipment, and until its arrival at the point of destination and delivery there to the consignee.

Thus under its power to regulate interstate commerce, as involved in the transportation, in original packages, of ardent spirits from one State to another, Congress, by the necessary effect of the act of 1890, made it impossible to transport such packages to places within a prohibitory State and there dispose of their contents by sale, although it had been previously held that ardent spirits were recognized articles of commerce, and until Congress otherwise provided could be imported into a State and sold in the original packages, despite the will of the State. If, at the time of the passage of the act of 1890, all the States had enacted liquor laws prohibiting the sale of intoxicating liquors within their respective limits, then the act would have had the necessary effect to exclude ardent spirits altogether from commerce among the States, for no one would ship, for purposes of sale, packages containing such spirits to points within any State that forbade their sale at any time or place, even in unbroken packages, and in addition, provided for the seizure and forfeiture of such packages. So that we have in the *Rahrer* case a recognition of the principle that the power of Congress to regulate interstate commerce may sometimes be exerted with the effect of excluding particular articles from such commerce.

The second objection to the Hepburn bill was the fear that it might interfere with bona fide trans-State shipments and unnecessarily harass common carriers in the legitimate transportation of liquors from and into territory wherein the traffic was not interdicted. Our committee, nor most of our best friends in the House believed that such a construction would be given, and to have made the amendment in the Senate would be tantamount to a consent to the loss of the bill in the Fifty-seventh Congress, as it could not have gotten through the House conference and the body itself during the remainder of the session. This objection, whether valid or otherwise, is met in the bill now before Congress at our request, and as drafted after consultation with our league attorney and special legal friends in many States, by Mr. Hepburn in the House as H. R. 4072, and Mr. Dolliver in the Senate as S. 1390, by the addition of a proviso specifically exempting the authorization of a State to interfere with a bona fide shipment of liquors entirely through such State and not intended for delivery therein.

In thus giving a brief résumé of the efforts to enact the bill last winter it should be said that by the assistance of Senator Dolliver another meeting of the committee was arranged on the 27th of February, at which definite action was expected and in a sense promised. By special efforts and personal appeals a majority of the committee were present. Two members left other important committee meetings to make a quorum, and when they had to return, the meeting being called to order over half an hour late, asked to be counted present. Later, only six out of the thirteen members being actually in the room, the committee meeting was declared adjourned for lack of a quorum. Later in the day a proposition was made to Senator Dolliver and by him submitted to your superintendent, offering to call another meeting of the committee and recommend the bill if we would consent to an amendment which was proposed by parties unfriendly to the measure. This amendment would, in our judgment and in that of many Senate and House friends we immediately consulted, have vitiated the bill, and Senator Dolliver likewise not desiring to labor for a worthless measure, the answer was returned that we preferred to go before the people with our demand for an effective law containing so fair provisions as the Hepburn bill rather than secure a barren victory by passing a law valueless to the States.

A combination of circumstances in the closing hours of a short session, with the Senate occupied with filibustering on statehood and other propositions, and prominent Senators unable to secure action on measures of concern to themselves and the country, conspired to prevent our getting the bill through the Senate.

Meanwhile a deal of preparatory work has been done, our people have been made more familiar with the necessity for and importance of this measure, and by a unanimous vote our national conference of superintendents last week decided to urge the enactment of the Hepburn-Dolliver bill and to cooperate with this department to the utmost in securing its passage. In this determination we have the full sympathy and active cooperation of the national legislative department of the W. C. T. U.

It may be interesting to relate that before the last meeting of the Senate Committee on Interstate Commerce referred to—the Supreme Court's lottery decision not yet having been printed—we had trans-

cript made at the clerk's office and every member of the committee was supplied by us with a large portion of the decision, sufficient to show our claim for the constitutionality of the Hepburn bill.

Our bill this session went to the Committee on the Judiciary in both branches.

The special interest and help in the House of Messrs. Hepburn, of Iowa; Littlefield, of Maine; Smith, of Iowa; Thomas, of Iowa; Jenkins, of Wisconsin; Nevins, of Ohio, and Clayton, of Alabama, and in the Senate of Messrs. Dolliver, of Iowa; Hansbrough, of North Dakota; Gallinger, of New Hampshire; Carmack, of Tennessee; McLaurin, of Mississippi; Patterson, of Colorado, and Tillman, of South Carolina, are thus gratefully acknowledged, without disparagement of the friendliness of others who were not in position to render the same assistance on the Hepburn bill during the last Congress.

In this connection the uniform courtesy and fair treatment from the chairman of the Military Committee of the House, Hon. John A. T. Hull, as well as others on that committee named in previous reports, deserve special mention. Our success in holding the anticanteen law against tremendous pressure and in securing the appropriations for recreation buildings at the army posts was promoted by the attitude and influence of Mr. Hull.

It is with great gratification that I report the return during the current year of two of the staunchest friends of the reform to the Senate for the next six years, H. C. Hansbrough, of North Dakota, and J. H. Gallinger, of New Hampshire. They led our anticanteen fight in the Senate in 1901, and were the earliest and sturdiest supporters of our constructive temperance policy for the Army. Other Senators, whose position has been gratefully acknowledged and who have been reelected for the same period, were William B. Allison, of Iowa, longest in continuous service in the Senate; Clay, of Georgia; Dillingham, of Vermont; Penrose, of Pennsylvania; Platt, of Connecticut; Teller, of Colorado; and others.

The Hepburn-Dolliver bill, when passed, will solve the problem of the interstate traffic in liquors, seemingly so far as we can properly ask, but there is in many States a problem of the shipment of liquors into prohibitory territory from points within the same State. The control of that matter is entirely within the purview of State authority. Through the efforts of our West Virginia league, under the efficient leadership of Superintendent Alvord, a law was passed last winter, which is commended to all States without such legislation as a model statute.

#### HOUSE BILL No. 195.

A BILL regulating the shipment and sale of intoxicating liquors contrary to law, and providing a remedy therefor.

SECTION 1. That any agent or employee of any person, firm, or corporation carrying on the business of a common carrier, or any other person, who, without a State license for dealing in intoxicating liquors, shall engage in the traffic or sale of such liquors, or be interested for profit in the sale thereof, or act as the agent or employee of the consignor or consignee of the same, or who shall solicit or receive any order for the sale of any intoxicating liquors, or deliver to any person, firm, or corporation any package containing such intoxicating liquors, shipped "Collect on delivery," or otherwise, except to a person having a State license to sell the same, or to the bona fide consignee thereof, who has in good faith ordered the same for his personal use, shall be deemed to have made a sale thereof, contrary to law, and guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten, nor more than

one hundred dollars, and may at the discretion of the court be imprisoned in the county jail not exceeding six months.

SEC. 2. If any person shall make affidavit before any justice of the peace that he has cause to believe and does believe any spirituous liquors, wine, porter, ale, beer, or drink of like nature are being held, sold, or delivered in violation of the provisions of this act, such justice shall issue his warrant as provided in section twenty-three of chapter thirty-two of the code, and like proceedings shall thereupon be had as provided therein.

Of course care is necessary to see that verbiage, etc., is such as to conform to requirements of individual States, and the question of constitutionality in each case should be carefully considered.

Besides the distinctively legislative work in Congress, I am glad to report that our Washington office has been able to be of service to the cause and to our auxiliary State leagues in matters like that of the Bremerton Navy-Yard action by the Navy Department upon information furnished by our Washington State league, as well as in other related matters in other Departments. In the Post-Office Department particularly we have been of service to the reform and to league administration in the States, and we are ever ready and pleased, with all our numerous and multiform duties, to assist every one of the States and Territories as occasion may require. This office can not, however, take up purely personal measures in Congress or in the Departments, no matter if they be closely allied with our friends' interests here and there. The influences and friendships developed during our four years' work as a league in Washington are part of our capital, to be used only in advancing the temperance reform as the agency of the churches in this line of Christian effort.

This leads me to a final word about our relation as a league to the churches and temperance organizations. From the very opening of our league work, over ten years ago, our appeal has been for a united church in active conflict with the saloon. It is not too much to say that a great part of the increased activity of the churches along temperance lines has been due directly to this influence. From the start we have said we could not do this work for the churches—it would have to be done back in the precincts and wards, cities and counties, districts and States, by the moral, patriotic, Christian people themselves—but that we would furnish safe and efficient leadership and supply them with the facts, both as to men and measures, upon which their action as good citizens could be safely based. More and more, year by year, this view has gained favor with the churches until to-day the league in many of the States, definitely and officially, and in the national field to a very large extent, is the agency of the federated churches in this struggle with their arch foe.

We lack in some things for the most effective work; particularly do we need a well-fortified national treasury that will permit the prompt doing of everything that will make for our success in any contest in which we engage, without first either taking the time to raise the needed funds when the work should be under way; or second, without doing the work and trusting that generous friends will lift the burden when the task is done. We shall, doubtless, here and there, now and then, err in the location of men in certain fields. These difficulties can, and under our improved administrative system, fully established at this convention just closing, and we believe will be corrected as they are met; but we have now prepared a scheme of united, practical, effective warfare against the saloon such as can command the confidence, coopera-

tion and practical support of the churches and temperance forces of the country and the possession and use of which will set forward the date of their triumph over the liquor traffic.

It is to be remembered, therefore, that, through its auxiliary State leagues and its affiliated church and temperance bodies, the Anti-Saloon League reaches directly the male temperance constituency of the entire country and a large portion of the female temperance element not identified with either branch of the W. C. T. U., and together with these two women's organizations, with which we have worked in completest harmony, the league virtually stands as a real federation or league of the national antisaloon forces, and the success that has come to our efforts during the last years forms a strong argument for concentrating our energies under its leadership and increasing its effectiveness by the largest measure of moral and financial support.

While, with the exception of the league's efforts, the same agencies have been at work in behalf of national temperance interests for a decade past, the only national temperance law enacted since the Wilson law of 1890, prior to the opening of our Washington office, four years ago, was the first anticanteen enactment, rendered ineffective by the interpretation of the Attorney-General and Secretary of War. Since that time we have had a succession of victories, and though all were not framed or specially pressed by our league, its presence in the States and at the Capitol, its effective methods of work, its practical plan of sustaining the friends of temperance reform in public positions, and conversely of reminding constituents of adverse records, its reach of the religious and secular press, aside from its own distinctive publications of great value, have all conspired to make these victories possible and to prepare the way for yet others of even more far-reaching consequence.

With a strong, vigorous, well-manned league, backed by the churches in every State and Territory in the Union, with at least 400 consecrated and trained State and district superintendents, under the oversight of a strong national organization whose concern is the welfare of all, all working in completest unity and harmony toward a common goal, though betimes by varying methods as circumstances may dictate, and with at least a full million dollars a year to pay the cost of such equipment and service, thus reaching and officially representing the entire temperance constituency of a nation, who dare say that the victory for which we have labored and sacrificed and waited and prayed is not within the grasp of the church of which we have unfalteringly sung—

Zion stands with hills surrounded,  
Zion, kept by power divine,  
All her foes shall be confounded,  
Though the world in arms combine.

With reliance upon your sympathy and loyal cooperation and a prayer for the Divine help, without which we would labor in vain, I pledge my best endeavors in pushing forward the work of our league during the coming year.

